

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|   |   |            |
|---|---|------------|
| <b>MARIA VALENCIA-TORRES, on )</b>        | ) |            |
| <b>behalf of herself and all others )</b> | ) |            |
| <b>similarly situated, )</b>              | ) |            |
|   | ) |            |
| <b>Plaintiff, )</b>                       | ) |            |
|   | ) |            |
| <b>v. )</b>                               | ) | <b>No.</b> |
|   | ) |            |
| <b>GOOGLE, LLC and GOOGLE )</b>           | ) |            |
| <b>PAYMENT CORP. , )</b>                  | ) |            |
|   | ) |            |
| <b>Defendants. )</b>                      | ) |            |

**STATEWIDE CLASS ACTION COMPLAINT**

Plaintiff Maria Valencia-Torres, on behalf of herself and others similarly situated, brings this action against defendants Google LLC and Google Payment Corporation (hereafter “Google”) to recover money lost to illegal gambling pursuant to Section 8-1-150 of the Code of Alabama, 1975. See also Ala. Code §§ 13A-12-20 et seq. Google promotes, enables, and profits from games downloaded from its Google Play Store and played by numerous Alabama residents that constitute illegal gambling under the statutory law and the strong public policy of the state of Alabama. Plaintiff seeks to represent a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Maria Valencia-Torres is an adult resident citizen of the state of Alabama, residing in Shelby County, Alabama.

2. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC is the primary operating subsidiary of the publicly traded holding company Alphabet Inc. Google LLC does business by agent in this state, district, and division.

3. Defendant Google Payment Corp. is a Delaware corporation with its principal place of business in Mountain View, California. It is a wholly-owned subsidiary of defendant Google LLC. Google Payment Corp. provides in-app payment processing services to Android app developers and Android users, collecting a 30% commission on most in-app purchases such as the ones made the basis of this lawsuit. It does business by agent in this state, district, and division. For ease of reference, Google LLC and Google Payment Corp. will be referred to hereinafter collectively as “Google.”

4. This is a class action brought by Alabama citizens against defendants with California and Delaware citizenship. The amount in controversy exceeds \$5 million, exclusive of interest and costs. Subject matter jurisdiction exists pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d).

5. Venue is proper under 28 U.S.C. § 1391(b)(2), because this is a “judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.”

### **FACTUAL BACKGROUND**

6. Google is one of the leading technology companies in the world. Its parent company Alphabet Inc. has a market capitalization approaching \$1 trillion. One of its leading businesses stems from its ownership and control of the Android mobile operating system, which is installed on virtually every smart phone and tablet not manufactured by Apple. Nearly all applications that run on the Android operating system are downloaded via the Google Play Store.

6. While the Android OS was originally touted as an “open” system that allowed for installation of software applications not controlled by Google, today the truth is quite different. Google has erected contractual and technological barriers that foreclose any competing methods to distribute apps to Android users. As a result, the Google Play Store maintains an almost-total monopoly on the distribution of apps made to run on the Android OS, including in-app purchases. As noted, Google takes up to 30% of all revenue generated by app sales in the Google Play Store and in-app purchases made on apps obtained through the Google Play Store. Millions of software developers make applications for the Android OS that as a practical matter are available only via the Google Play Store.

7. Many apps, including those that are the subject of this lawsuit, are initially free to download but contain in-app purchases that a customer can choose to purchase inside the app. Google provides the payment interface for all such purchases and, as noted, takes a hefty percentage of the money for itself. A 30% processing fee is many times the charge that other payment processors outside the Android ecosystem, such as Western Union, charge for processing such payments.

8. The money charged for in-app purchases is paid to Google. An Android customer is required to provide a method of payment, usually a credit or debit card, for all purchases made in the Google Play Store, including in-app purchases. Google then has a contractual obligation to the software developers to remit a portion of the money Google receives from the purchases, typically 70%, to the developers. This contractual arrangement is between Google and the developers who sell products in the Google Play Store. As between plaintiff and the class members and Google, however, all in-app and other purchases involve the payment of money *to Google*, not the developers.

9. This case concerns Google's profiting from illegal gambling machine games that it sells in its Google Play Store. Google and its chief mobile software competitor, Apple, both allow customers to purchase games that are no more or no less than casino-style slot machines, casino style table games, and other common gambling games.

10. There are numerous such gambling games that Google makes available in the Google Play Store, and there is very little variation on how they work. When a customer downloads the game and opens it for the first time, the customer has a set number of free starting “coins,” for example, 100,000 or 1,000,000, to play the slots. The games themselves work precisely like a casino slot machine or other games in Las Vegas. In addition to slots, customers can play blackjack, roulette, poker, keno, bingo, and other card and gambling games. A loss results in a loss of “coins,” but the customer has the chance to win more coins. Eventually a customer runs out of coins, and is prompted to use real money to buy more coins for the opportunity to keep playing the game. Hundreds of such games exist. The 200 most downloaded games are in the following table:

|    |  |     |  |
|----|--|-----|--|
| 1  | Slotomania™ Free Slots: Casino Slot Machine Games  | 101 | Bingo Adventure-Free casino game with bingo bonus  |
| 2  | Jackpot Party Casino Games: Spin FREE Casino Slots | 102 | Superb Casino - HD Free Slots Games                |
| 3  | Cash Frenzy™ Casino – Free Slots Games             | 103 | FoxwoodsONLINE - Free Casino                       |
| 4  | POP! Slots™- Play Vegas Casino Slot Machines!      | 104 | Gambino Slots: Free Online Casino Slot Machines    |
| 5  | Cashman Casino: Vegas Slot Machines! 2M Free!      | 105 | Blazing 7s™ Casino Slots - Free Slots Online       |
| 6  | DoubleU Casino - Free Slots                        | 106 | Bravo Casino- Free Vegas Slots                     |
| 7  | Vegas Slots - DoubleDown Casino                    | 107 | Baba Wild Slots - Slot machines Vegas Casino Games |
| 8  | House of Fun™: Free Slots & Casino Slots Machines  | 108 | VegasStar™ Casino - FREE Slots                     |
| 9  | Lotsa Slots - Free Vegas Casino Slot Machines      | 109 | Grand Win Casino - Hot Vegas Jackpot Slot Machine  |
| 10 | Huuuge Casino Slots - Slot Machines 777            | 110 | MONOPOLY Bingo!                                    |
| 11 | Slots: Heart of Vegas™ – Free Slot Casino Games    | 111 | Texas HoldEm Poker Deluxe                          |

|    |  |     |  |
|----|--|-----|--|
| 12 | Big Fish Casino - Play Slots and Casino Games      | 112 | Vegas World Casino: Free Slots & Slot Machines 777 |
| 13 | Lightning Link Casino: Free Vegas Slots! 10M Bonus | 113 | Casino X - Free Online Slots                       |
| 14 | Caesars Casino: Free Slots Games                   | 114 | Lucky Play Casino – Free Las Vegas Slots Machines  |
| 15 | Wizard of Oz Free Slots Casino                     | 115 | Bingo Holiday: Free Bingo Games                    |
| 16 | Hit it Rich! Lucky Vegas Casino Slot Machine Game  | 116 | Bingo City 75: Free Bingo & Vegas Slots            |
| 17 | Quick Hit Casino Games - Free Casino Slots Games   | 117 | Real Casino - Free Vegas Casino Slot Machines      |
| 18 | Billionaire Casino Slots - Slot Machines 777       | 118 | Double Win Vegas - FREE Slots and Casino           |
| 19 | Jackpot Magic Slots™: Social Casino & Slot Games   | 119 | DoubleX Casino - Free Slots                        |
| 20 | Gold Fish Casino Slots - FREE Slot Machine Games   | 120 | Lucky Draw - 3D Casino Slots                       |
| 21 | Scatter Slots - Hot Vegas Slot Machines Casino 777 | 121 | Slot Bonanza - Free casino slot machine game 777   |
| 22 | myVEGAS Slots - Las Vegas Casino Slot Machines     | 122 | Real Casino Vegas:777 Classic Slots & Casino Games |
| 23 | Zynga Poker – Free Texas Holdem Online Card Games  | 123 | Wheel of Fortune Slots Casino                      |
| 24 | Game of Thrones Slots Casino - Slot Machine Games  | 124 | WinStar Online Casino & eGames                     |
| 25 | Jackpot Mania™ - DAFU Casino Vegas Slots           | 125 | Stardust Casino Slots – FREE Vegas Slot Machines   |
| 26 | my KONAMI Slots - Free Vegas Casino Slot Machines  | 126 | World Poker Tour - PlayWPT Free Texas Holdem Poker |
| 27 | Bingo Pop - Live Multiplayer Bingo Games for Free  | 127 | Epic Diamond Slots – Free Vegas Slot Machines      |
| 28 | Club Vegas: Online Slot Machines with Bonus Games  | 128 | Quick Cash Classic Slots - Free Vegas Slots Games  |
| 29 | MONOPOLY Slots Free Slot Machines & Casino Games   | 129 | Win Vegas x NASCAR: 777 Classic Slots, Free Casino |
| 30 | Cash Tornado Slots - Vegas Casino Slots            | 130 | Magic Vegas Casino: Slots Machine                  |
| 31 | Willy Wonka Slots Free Casino                      | 131 | mychoice casino jackpot slots + free casino games  |
| 32 | Vegas Live Slots : Free Casino Slot Machine Games  | 132 | Vegas Casino Slots 2020 - 2,000,000 Free Coins     |
| 33 | GSN Casino: Play casino games- slots, poker, bingo | 133 | Slots Vacation - FREE Slots                        |
| 34 | 88 Fortunes - Casino Games & Free Slot Machines    | 134 | Slots Billionaire: Free Slots Casino Games Offline |
| 35 | Bingo Journey - Lucky & Free Bingo Games           | 135 | The Big Jackpot                                    |

|    |   |     |  |
|----|---|-----|--|
| 36 | Slots (Golden HoYeah) - Casino Slots                  | 136 | DoubleDown Classic Slots - FREE Vegas Slots!       |
| 37 | Neverland Casino Slots 2020 - Social Slots Games      | 137 | Buffalo 5-Reel Deluxe - Free Classic Slots Casino  |
| 38 | Cash Mania Slots - Free Slots Casino Games            | 138 | Best Casino Slots - 777 Vegas Slots Games          |
| 39 | Classic Slots-Free Casino Games & Slot Machines       | 139 | Video Poker - Classic Casino Games Free Offline    |
| 40 | Tycoon Casino™: Free Vegas Jackpot Slots              | 140 | Play Las Vegas - Casino Slots                      |
| 41 | Jackpot Slot Machines - Slots Era™ Vegas Casino       | 141 | Vegas Night Slots - HOT&FREE VEGAS CASINO GAMES    |
| 42 | Double Win Casino Slots - Real Vegas Night Slots      | 142 | Full House Casino - Free Vegas Slots Machine Games |
| 43 | Vegas Friends - Casino Slots for Free                 | 143 | Ultimate Slots: 2019 Vegas Casino Slot Machines    |
| 44 | Hot Shot Casino: Free Casino Games & Blazing Slots    | 144 | Let's Vegas Slots                                  |
| 45 | High 5 Casino: The Home of Fun & Free Vegas Slots     | 145 | Bingo 90 Live: Vegas Slots & Free Bingo            |
| 46 | Rock N' Cash Casino Slots -Free Vegas Slot Games      | 146 | Slots of Vegas                                     |
| 47 | Ignite Classic Slots                                  | 147 | Lucky Lottery Scratchers                           |
| 48 | Casino Slots DoubleDown Fort Knox Free Vegas Games    | 148 | San Manuel Slots                                   |
| 49 | Bingo Blaze - Free Bingo Games                        | 149 | Diamond Sky Casino – Classic Vegas Slots & Lottery |
| 50 | Winning Slots<br>casino games:free vegas slot machine | 150 | Best Bet Casino™   Best Free Slots & Casino Games  |
| 51 | Huge Win Slots - Real Casino Slots in Vegas Nights    | 151 | Vegas Craps by Pokerist                            |
| 52 | Double Rich - Hottest Vegas Casino Slots Games        | 152 | Vegas Slots Galaxy Free Slot Machines              |
| 53 | Slots Casino - Jackpot Mania                          | 153 | Slots : FREE Vegas Slot Machines - 7Heart Casino!  |
| 54 | Jackpot Fever – Free Vegas Slot Machines              | 154 | 麻將 明星3缺1麻將—台灣16張麻將<br>Mahjong 、SLOT、Poker          |
| 55 | Slots™ - Classic Slots Las Vegas Casino Games         | 155 | Woohoo Slots : Play Free Casino Slot Machine Games |
| 56 | Wild Classic Slots™ - Best Wild Casino Games          | 156 | Slots™   |
| 57 | Casino Jackpot Slots - Infinity Slots™ 777 Game       | 157 | Casino Frenzy - Free Slots                         |
| 58 | 星城Online  | 158 | Manly Slots: Slots for Men                         |
| 59 | Stars Slots Casino - Vegas Slot Machines              | 159 | Spin 4 Win Slots - Real Vegas for Senior Slot Fan  |

|    |  |     |   |
|----|--|-----|---|
| 60 | Wynn Slots - Online Las Vegas Casino Games         | 160 | Multi-Strike Poker™   Free Multi-Play Video Poker |
| 61 | Bingo: Lucky Bingo Games Free to Play at Home      | 161 | Seminole Social Casino                            |
| 62 | Clubillion™- Vegas Slot Machines and Casino Games  | 162 | Ellen's Road to Riches Slots & Casino Slot Games  |
| 63 | Coin Dozer: Sweepstakes                            | 163 | Players Paradise Casino Slots - Fun Free Slots!   |
| 64 | Lucky Time Slots Online - Free Slot Machine Games  | 164 | SLOTS GRAPE - Free Slots and Table Games          |
| 65 | Show Me Vegas Slots Casino Free Slot Machine Games | 165 | Bingo PartyLand 2 - Free Bingo Games              |
| 66 | Bingo Frenzy! Bingo Cooking Free Live BINGO Games  | 166 | Star Spins Slots: Vegas Casino Slot Machine Games |
| 67 | Cash Storm Casino - Online Vegas Slots Games       | 167 | Slots! CashHit Slot Machines & Casino Games Party |
| 68 | Slots: DoubleHit Slot Machines Casino & Free Games | 168 | DoubleU Bingo - Free Bingo                        |
| 69 | FaFaFa™ Gold Casino: Free slot machines            | 169 | VIDEO POKER OFFLINE FREE!                         |
| 70 | SLOTS - Black Diamond Casino                       | 170 | Poker Night in America                            |
| 71 | NEW SLOTS 2020—free casino games & slot machines   | 171 | Super Jackpot Slots - Vegas Casino Slot Machines  |
| 72 | Bingo Club--Pop bingo games online with numbers    | 172 | City of Dreams Slots - Free Slot Casino Games     |
| 73 | Cash Blitz - Free Slot Machines & Casino Games     | 173 | Sunny's Rooster Reels                             |
| 74 | Bingo Drive – Free Bingo Games to Play             | 174 | Vegas Deluxe Slots:Free Casino                    |
| 75 | Vegas Downtown Slots™ - Slot Machines & Word Games | 175 | Binion's Casino                                   |
| 76 | Old Vegas Slots – Classic Slots Casino Games       | 176 | CLUE Bingo!                                       |
| 77 | Jackpotjoy Slots: Slot machines with Bonus Games   | 177 | OMG! Fortune Slots - Grand Casino Games           |
| 78 | HighRoller Vegas - Free Slots & Casino Games 2020  | 178 | بوكر تكساس بويا (Texas Boya Poker)                |
| 79 | Golden Tiger Slots - Online Casino Game            | 179 | Bingo Infinity™ - Free Casino Slots & Bingo Games |
| 80 | ManganDahen Casino - Free Slot                     | 180 | 777 Slots - Free Vegas Slots!                     |
| 81 | Coin Trip  | 181 | Coin Dozer: Casino                                |
| 82 | Golden Casino: Free Slot Machines & Casino Games   | 182 | Bingo Town - Live Bingo Games for Free Online     |
| 83 | Free Slot Machines & Casino Games - Mystic Slots   | 183 | High Rollin' Vegas Slots                          |
| 84 | The Walking Dead: Free Casino Slots                | 184 | Lucky North Casino- Free Slots                    |
| 85 | Take5 Free Slots – Real Vegas Casino               | 185 | Lucky Win Casino™- FREE SLOTS                     |



|     |   |     |  |
|-----|---|-----|--|
| 86  | DH Texas Poker - Texas Hold'em                    | 186 | NPlay Pro  |
| 87  | Gold Fortune Casino™ - Free Vegas Slots           | 187 | Lucky Duck Slots                                   |
| 88  | ZitoBox   | 188 | Slots Free - Vegas Casino Slot Machines            |
| 89  | Grand Jackpot Slots - Pop Vegas Casino Free Games | 189 | Tongits Go - The Best Card Game Online             |
| 90  | Video Poker Classic Free                          | 190 | Play To Win: Win Real Money in Cash Sweepstakes    |
| 91  | Jackpot Planet - a New Adventure of Slots Games   | 191 | Dragon 88 Gold Slots - Free Slot Casino Games      |
| 92  | Slingo Arcade: Bingo Slots Game                   | 192 | 777 Classic Slots: Free Vegas Casino Games         |
| 93  | Super Win Slots - Real Vegas Hot Slot Machines    | 193 | Link It Rich! Hot Vegas Casino Slots FREE          |
| 94  | GSN Grand Casino – Play Free Slot Machines Online | 194 | Golden Wins Casino Slots                           |
| 95  | Hard Rock Social Casino                           | 195 | Slots on Tour Casino - Vegas Slot Machine Games HD |
| 96  | Slots Free - Big Win Casino™                      | 196 | Cash Fever Slots™-Vegas Casino                     |
| 97  | Epic Jackpot Slots - Free Vegas Casino Games      | 197 | Teen Patti Gold - 3 Patti, Rummy, Poker Card Game  |
| 98  | Slots Pharaoh's Way Casino Games & Slot Machine   | 198 | HD Poker: Texas Holdem Online Casino Games         |
| 99  | GamePoint Bingo - Free Bingo Games                | 199 | Cashmania Slots 2020: Free Vegas Casino Slot Game  |
| 100 | Vegas Slots: Deluxe Casino                        | 200 | Live Poker Tables–Texas holdem and Omaha           |

11. Plaintiff Valencia-Torres downloaded and played one of these casino-style gambling games. Prior to December 26, 2019, she downloaded Slotomania from the Google Play Store. On that date, she began purchasing coins through the app so she could continue to play for a chance to win free coins that would enable her to enjoy the game for a longer period of time. In the six months prior to the filing of this complaint, she paid \$166.62 to Google for the privilege of continuing to play the illegal gambling game.

12. A customer such as plaintiff does not have the ability to collect actual cash as a result of “winning” games, but he does have the ability to “win” and thereby score more playing time. Alabama’s gambling statutes make clear that paying money in a game for a chance to win more playing time constitutes illegal gambling under Alabama law. Section 13A-12-20(11) of the Alabama Code defines a “thing of value” for purposes of the state gambling laws as:

Any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving *extension of a service entertainment or a privilege of playing at a game or scheme without charge*.

A game where a patron pays money for the chance to win more playing time without charge violates Alabama law.

13. Google is not some minor or incidental participant in these illegal gambling games. It is the principal promoter and facilitator of the illegal activity. Google maintains dictatorial control over what apps can be downloaded from the Google Play Store, and the payment method to purchase in-app items. As the maker of the Fortnite game alleged in a recent antitrust injunction lawsuit against Google:

Google has eliminated competition in the distribution of Android apps using myriad contractual and technical barriers. Google’s actions force app developers and consumers into. Google’s own monopolized “app store”—the Google Play Store. Google has thus installed itself as an unavoidable middleman for app developers who wish to reach Android users and vice versa. Google uses this monopoly power to impose a tax that siphons monopoly profits for itself every time an app developer transacts with a consumer for the sale of an app or in-app content

Complaint for Injunctive Relief, Epic Games v. Google LLC, et al, in the United States District Court for the Northern District of California, August 13, 2020, C3:20-cv-05671 ¶ 10 (copy attached). As noted, Google uses its unfettered control over apps played on the Android OS to extract a hefty 30% tax on all purchases made to buy apps or in-app content such as “coins” to gamble with.

14. Google has the ability, which it has employed on other apps, to geo-restrict games so that they can only be played in certain states. In fact, with cash-out gambling games it regularly restricts those game so that they can only be played in states where that type of gambling is legal. Google has also restricted gambling games such as the ones made the basis of this lawsuit so that minors cannot download or play them. It has the ability with existing technology it currently uses to prevent the games at issue here from being played in this state.

15. Google’s Play Store is not just a venue to buy Android apps. It is a promotional tool. Google heavily promotes apps, such as the illegal gambling games that form the basis of this complaint, that promise to bring in revenue. Revenue from the Google Play Store is the reason Google is such a dominant force in the technology world.

16. Thus, Google enables, permits, promotes, and profits from illegal gambling.

## **ALABAMA LEGAL FRAMEWORK**

17. Alabama has a strong public policy against gambling in this state. The state's strong public policy against gambling includes a statutory right of persons who spend money on gambling to recover their money.

18. The Alabama criminal laws pertaining to gambling are codified at Sections 13A-12-20 through 13A-12-92 of the Code of Alabama, 1975. Section 13A-12-22(a) states "A person commits the crime of promoting gambling if he knowingly advances or profits from unlawful gambling activity otherwise than as a player." Section 13A-12-23 adds: "A person commits the crime of conspiracy to promote gambling if he conspires to advance. or profit from gambling activity otherwise than as a player." Gambling, in turn, is defined as follows: "A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome." Ala. Code § 13A-12-20(4).

19. As already noted, "something of value" is not limited under Alabama law to the situation where one gambles in the hopes of winning actual cash money. Rather, "something of value" specifically includes "extension of a service entertainment or a privilege of playing at a game or scheme without charge." As a matter of law, paying money to get "coins" one bets hoping to win more "coins" so

as to gain the “privilege of playing at a game or scheme without charge” is gambling a thing of value under Alabama law.

20. As to the prohibition of “promoting” gambling in Section 13A-12-22(a), the statute states that a person “advances gambling activity if he or she “engages in conduct that materially aids any form of gambling activity.” By promoting, receiving the proceeds, approving and profiting from the illegal gambling games, Google “materially aids” illegal gambling proceeds. Since Google directly promoted gambling, it is also guilty of conspiring to promote gambling under Section 13A-12-23.

21. Alabama provides a statutory civil cause of action to recover money paid and lost due to gambling. Section 8-1-150(a) of the Code of Alabama provides:

All contracts founded in whole or in part on a gambling consideration are void. Any person who has paid any money or delivered any thing of value lost upon any game or wager may recover such money, thing, or its value by an action commenced within six months from the time of such payment or delivery.

### **CLASS ALLEGATIONS**

22. Plaintiff seeks to certify and represent a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure. The class sought to be certified is:

All Alabama residents who downloaded, played, and paid money for additional coins within games from the Google Play Store that featured slots, roulette, blackjack, poker, keno, craps, and other kinds of casino-style gambling games, bingo, or simulations thereof, where the player had a chance to win coins or other means to play for additional periods of time, during a period commencing six months before the filing of

this complaint and continuing to a date to be set by the Court following certification. All employees of the Court, and plaintiff's counsel and their families are excluded.

23. This class action satisfies the numerosity requirement of Rule 23(a)(1) because joinder of all members of the plaintiff class is impracticable. There are thousands of Alabama residents who are members of the class.

24. It also satisfies the commonality requirement of Rule 23(a)(2) because there are central questions of fact and law that are common to the class. Such common questions include, at a minimum, (a) whether these virtually identical gambling games sold through the Google Play Store violate Alabama's prohibition of illegal gambling; (b) whether gambling for additional play-time is a thing of value under Alabama law; (c) whether Google promoted gambling through its participation in the sale of in-app purchases through the Google Play Store; (d) whether Google participated in a conspiracy to promote gambling; and (e) whether plaintiff and the class members are entitled to recover their money pursuant to Section 8-1-150 of the Code of Alabama.

25. The proposed class satisfies the typicality requirement of Rule 23(a)(3) because the named plaintiff's claims are typical of the claims of the class members. Both plaintiff and the class members lost money in an effort to win additional play-time on these illegal gambling games.

26. The named plaintiff will fairly and adequately represent the interests of the class pursuant to Rule 23(a)(4). Plaintiff has no interests that conflict with the interests of the class. Furthermore, plaintiff has retained competent and experienced counsel with decades of experience litigating class cases.

27. Plaintiff seeks certification of a class pursuant to Rule 23(b)(3), which allows class treatment of a claim where:

(3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

28. The common questions of law and fact in this case vastly predominate over any individual issues affecting only individual class members. The *only* individual issue presented by these class members is the exact amount of money damages to which each class member is entitled. Such damages issues are routinely held not to predominate over common questions in cases like this. Indeed, the

individual damages issues will be quickly and accurately determined by examining Google's own records.

29. Class treatment is by far superior to individual litigation as a fair and efficient way to adjudicate this controversy. Given the relatively small individual amounts at issue, it unlikely whether there would be any adjudication at all without use of the class device. No individual class member would rationally commence and prosecute a lawsuit where the individual amount in controversy likely would not exceed the filing fees.

30. For this reason, none of the class members have any interest in controlling the prosecution of separate actions.

31. Likewise, to our knowledge, no class member has already commenced an action concerning this controversy.

32. It would much more desirable to concentrate this case in one action rather than allow the prosecution of individual actions because, as noted, such individual actions would likely never be filed because there would be no motivation for any individual class member to file an individual suit.

33. We foresee no particular difficulties in managing this case as a class action because 100% of the necessary information to compensate the individual class members is contained in Google's own records concerning purchases made through the App Store.



### **CAUSE OF ACTION**

33. Plaintiff, on her own behalf and on behalf of those similarly situated, seek recovery of all sums paid through in-app purchases in these games made through the Google Play Store pursuant to Section 8-1-150(a) of the Code of Alabama, 1975.

### **PRAYER FOR RELIEF**

WHEREFORE, the premises considered, plaintiff asks the Court to:

1. Take jurisdiction of this cause;
2. Following discovery, certify this case as a class action pursuant to Rule 23(b)(3);
3. Appoint the undersigned as Class Counsel and the named plaintiff as class representative;
4. Enter a final judgment against Google LLC and Google Payment Corp. awarding plaintiff and the class members a refund of all money paid through the illegal gambling games described herein;
5. Award Class Counsel reasonable attorneys' fees and expenses to be paid out of the judgment in favor of the class;
6. Award the named plaintiff a reasonable sum of money for her services in this case on behalf of the class, also to be paid out of the judgment in favor of the class;

7. Award interest and costs; and
8. Award any other relief to which the Court finds plaintiff and the class are entitled.

Respectfully submitted this 21<sup>st</sup> day of October, 2020,

/s/ John E. Norris  
John E. Norris (NOR041)  
Attorney for Plaintiff

**OF COUNSEL:**

D. Frank Davis (DAV009)  
John E. Norris (NOR041)  
Wesley W. Barnett (BAR141)  
Dargan M. Ware (WAR089)  
DAVIS & NORRIS, LLP  
2154 Highland Avenue South  
Birmingham, Alabama 35205  
Telephone: 205.930.9900  
Facsimile: 205.930.9989  
fdavis@davisnorris.com  
jnorris@davisnorris.com  
wbarnett@davisnorris.com  
dware@davisnorris.com